

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CRIMINAL 05-0383CCC

1) JOEL MORENO-ESPADA
a/k/a JOEL, (Counts One and Two)
2) JOSE RAFAEL VELAZQUEZ-LOPEZ, a/k/a Bebe
(Counts One and Two)
3) ITHIER RIVERA-SANTIAGO,
a/k/a Ithier (Counts One, Two and Three)
4) JOSE RAFAEL ORTIZ-MELENDEZ
5) JOSE A. RIVERA-SANTIAGO
a/k/a Pelón (Counts One and Two)
6) HECTOR LOPEZ-FLORES
7) LUIS DANIEL MELENDEZ-SANCHEZ
a/k/a Corito (Counts One, Two and Three)
8) MIGUEL A. LOPEZ-PAGAN
a/k/a Macho
(Counts One, Two and Three)
9) OMAR MORENO-ESPADA
a/k/a Omar (Counts One and Two)
10) RAMON L. MARTINEZ-RODRIGUEZ
a/k/a Negro, a/k/a Spiderman
(Counts One and Two)
11) JOSE RIVERA-GONZALEZ
a/k/a Gil (Count One)
12) JOSE E. RIVERA-GONZALEZ
a/k/a Geño (Count One)
13) CARLOS JOSE CRUZ-FRANCO
14) SONIA ESPADA-MALAVEZ
a/k/a Coja (Count One)
15) LIZETTE RIVERA-ESPADA
a/k/a Pelota (Count One)
16) YARITZA I. FRANCESCHI-MALAVE
(Count One)

Defendants

ORDER

Defendant Miguel A. López-Pagán has filed a Third Motion to Exclude Any and All Evidence Related to the Murder of Wilfredo José Padilla and the Shooting Incident in Lorain, Ohio (**docket entry 433**), which is based on the Order entered on March 12, 2007 (docket entry 406) excluding any evidence related to these two specific events. The Order also deemed amended the government's designation of evidence related to both exclusions. This unopposed Third Motion addresses the government's amended designation of evidence filed on

March 30, 2007 (docket entry 415). Defendant lists thirty-two specific items of evidence, identified as numbered in the amended designation, which he deems directly related either to the murder of Wilfredo J. Padilla or to the Lorain, Ohio shooting incident. For example, item 61 (copies of photographs of crime scene re: murder of Wilfredo José Padilla-Rivera on August 17, 2003), item 63 (autopsy report for deceased: William José Padilla-Rivera) and item 79 (notes "Resumen de Expediente" re: shooting of Wilfred José Padilla-Rivera by PRPD Agent Angel G. Rodríguez-Colón). Movant also raises at paragraph 4 of the motion thirty-two other items listed in the amended designation which he believes are also related to the two events of the murder and the shooting. Despite the filing of this motion approximately six weeks ago, the United States has not responded.

This is an important evidentiary issue which should have been resolved by now. If indeed there are items in the amended designation of evidence which directly or indirectly lead to the evidence excluded, the government must explain why and must justify why they should be admitted notwithstanding the Court's ruling excluding the two major events.

For the reasons stated, the government is ORDERED to file its response to defendant's Third Motion to Exclude Any and All Evidence Related to the Murder of Wilfredo José Padilla and the Shooting Incident in Lorain, Ohio (docket entry 433) no later than JULY 10, 2007. Failure to do so will result in the automatic exclusion of each and every item listed at paragraphs 3 and 4 of said motion.

SO ORDERED.

At San Juan, Puerto Rico, on June 28, 2007.

S/CARMEN CONSUELO CEREZO
United States District Judge